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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Draft resolution submitted by the Chairman

1997/... Situation of human rights in Afghanistan

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and accepted humanitarian rules, as set out in the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfill the obligations they have freely undertaken under the various international instruments,

Recalling Economic and Social Council resolution 1984/37 of 24 May 1984, in which the Council requested the Chairman of the Commission on Human Rights to appoint a special rapporteur to examine the situation of human rights in Afghanistan,

Recalling that Afghanistan is a party to the Convention on the Prevention and Punishment of the Crime of Genocide, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman

or Degrading Treatment or Punishment and the Convention on the Rights of the Child, and that it has signed the Convention on the Elimination of All Forms of Discrimination against Women,

Recalling in particular its resolution 1996/75 of 23 April 1996, in which the Commission decided to extend the mandate of the Special Rapporteur on the situation of human rights in Afghanistan for one year and requested him to consider submitting a report to the General Assembly at its fifty-first session, and Economic and Social Council decision 1996/280 of 24 July 1996, in which the Council approved the Commission's decision,

Recalling General Assembly resolution 51/195 of 17 December 1996 and Security Council resolution 1076 (1996) of 22 October 1996,

Deeply concerned at reports of violations and abuses of human rights and humanitarian law, including the right to life, to liberty and security of person and to freedom of opinion, expression, religion and association,

Concerned in particular at reports of violations and abuses against women and children, especially regarding access to basic education for girl children, and access by women to employment and training and their effective participation in political, economic, social and cultural life throughout the country,

Concerned also that a unified judicial system cannot be established throughout the country under the prevailing circumstances, and stressing the necessity, until one is created, for regional administrations to assume responsibility for the protection of the human rights of those people under their control, in accordance with internationally accepted standards of human rights,

Commending the activities carried out for the welfare of the Afghan people by various agencies and programmes of the United Nations, as well as by the International Committee of the Red Cross and other humanitarian organizations, including non-governmental organizations,

Welcoming the special emphasis that the United Nations Special Mission to Afghanistan has placed on human rights issues in its discussions with the Afghan parties,

1. Takes note with appreciation of the final report of the Special Rapporteur on the situation of human rights in Afghanistan (E/CN.4/1997/59) and of the conclusions and recommendations contained therein;

2. Notes with deep concern the intensification of armed hostilities in Afghanistan, which in some cases have resulted in the destruction of houses and in forced evictions, including on the ground of ethnicity, and calls on all parties involved immediately to cease such hostilities, to engage in a political dialogue aimed at achieving national reconciliation, and to permit the return of displaced persons to their homes;

3. Notes with concern the ongoing deterioration of the situation of human rights in Afghanistan as reported by the Special Rapporteur and deplores the violations and abuses of human rights and humanitarian law, including the rights to life, liberty and security of person, freedom from torture and from other forms of cruel, inhuman or degrading treatment or punishment, freedom of opinion, expression, religion and association, and freedom from discrimination on the basis of gender;

4. Expresses its deep concern at the frequent practice of arbitrary arrest and detention and of summary trials, which have resulted in summary executions, throughout the country, as well as the application of forms of punishment that do not conform to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

5. Calls on all the Afghan parties, in accordance with international human rights instruments, fully to respect and act in accordance with all human rights and fundamental freedoms, regardless of gender, ethnicity or religion;

6. Urges all the Afghan parties to restore respect for all the human rights of women, without delay, and in particular to take measures to ensure:

(a) The effective participation of women in civil, cultural, economic, political and social life throughout the country;

(b) Respect for the right of women to work, and reintegration in their employment;

(c) The right of women and of girls to education without discrimination, the reopening of schools and the admission of women and of girls to higher levels of education;

(d) Respect for women's right to security of person, and that those responsible for physical attacks on women are brought to justice;

(e) Respect for women's freedom of movement and effective access to facilities necessary to protect their right to the highest attainable standard of physical and mental health;

7. Encourages the Special Rapporteur to continue to pay attention to the human rights of women and of children and to apply a gender perspective in a similar manner as in his report to the Commission at its fifty-third session;

8. Demands that all the Afghan parties fulfill their obligations and commitments regarding the safety of all diplomatic missions and of United Nations personnel and other international personnel as well as their premises in Afghanistan, and cooperate fully with the United Nations and associated bodies as well as with non-governmental organizations, including humanitarian organizations, national and international, and other agencies;

9. Endorses the Special Rapporteur's condemnation of the abduction from United Nations premises of the former President of Afghanistan, Mr. Najibullah, and of his brother, and their subsequent summary execution;

10. Urges the Afghan authorities to provide sufficient and effective remedies to the victims of grave violations and abuses of human rights and of accepted humanitarian rules and to bring the perpetrators to trial in accordance with internationally accepted standards;

11. Strongly urges all the Afghan parties to work and cooperate fully with the United Nations Special Mission to Afghanistan with a view to achieving a comprehensive political solution leading to the cessation of armed confrontation and the establishment of a democratic government elected through free and fair elections, to be held throughout the country and based on the right to self-determination of the people of Afghanistan;

12. Recognizes that the promotion and protection of human rights should be an essential element in the achievement of a comprehensive solution to the crisis in Afghanistan, and therefore invites the Special Mission and the Special Rapporteur to exchange relevant information and to strengthen mutual consultation and cooperation;

13. Urges all the Afghan parties to respect fully international humanitarian law, to protect civilians, to halt the use of weapons against the civilian population, to stop the laying of landmines, especially anti-personnel mines, and urges all the Afghan parties to prohibit the drafting and the recruitment of children as para-combatants and to ensure their reintegration into society;

14. Invites the United Nations to offer, once national reconciliation is achieved and upon request of the governmental authorities, advisory

services and technical assistance concerning the drafting of a constitution, which should embody internationally accepted human rights principles and the holding of direct elections;

15. Stresses the importance of human rights education and awareness-building in both urban and rural areas, and encourages the international community to assist in this regard;

16. Encourages the United Nations Educational, Scientific and Cultural Organization to study, with the contribution of its competent committees, appropriate ways and means to restore the Afghan system of education and cultural heritage, in particular the restoration of the Kabul museum and other historical sites;

17. Urges all States to respect the full national independence and territorial integrity of Afghanistan and non-interference in its internal affairs, and takes note with concern of the report of the Special Rapporteur wherein he is informed of the presence of foreigners among prisoners of war;

18. Calls for the unconditional and simultaneous release of all prisoners of war, wherever they are held, including former Soviet prisoners of war, and for the tracing of the many Afghans still missing as the result of the war;

19. Calls upon all warring parties in Afghanistan to refrain from arbitrarily detaining civilian foreign nationals, and urges their captors to release them immediately;

20. Calls upon the Afghan parties to treat all suspects and convicted or detained persons in accordance with relevant international instruments;

21. Appeals to Member States and to the international community to provide on a non-discriminatory basis adequate humanitarian assistance to the people of Afghanistan and to the Afghan refugees in the neighbouring countries;

22. Encourages the United Nations Special Envoy to Afghanistan to exert efforts to ensure a gender perspective in the selection of his staff, in order to enhance the role of women in preventive diplomacy, peace-making and peace-keeping;

23. Urges the Afghan parties to continue to extend their full cooperation to the Commission on Human Rights and its Special Rapporteur, and to facilitate access to all sectors of society;

24. Decides to extend the mandate of the Special Rapporteur for one year, and requests the Special Rapporteur to report on the situation of human rights in Afghanistan to the Commission at its fifty-fourth session and to consider submitting a report to the General Assembly at its fifty-second session;

25. Requests the Secretary-General to give all necessary assistance to the Special Rapporteur;

26. Requests the High Commissioner for Human Rights to ensure a human rights presence in the context of the United Nations activities in Afghanistan in order to provide professional advice to all the Afghan parties, as well as to the intergovernmental and non-governmental organizations active in the field;

27. Decides to continue its consideration of the human rights situation in Afghanistan, as a matter of high priority, under the agenda item entitled "Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories".